UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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Ex parte EILEEN C. BROWN, THOMAS E. JOLLY, and
JOERG-THOMAS PFENNING

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Appeal 2016-000858
Application 12/818,515
Technology Center 2100

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Before BRUCE R. WINSOR, LINZY T. McCARTNEY, and
NATHAN A. ENGELS, *Administrative Patent Judges*.

PER CURIAM.

DECISION ON APPEAL

Appellants[1] appeal under 35 U.S.C. § 134(a) from the Non-Final
Rejection of claims 1–4, 7–20, 22, and 23. We have jurisdiction under 35
U.S.C. § 6(b). Claims 5, 6, and 21 are canceled. App. Br. 23, 27 (Claims
App'x).

We affirm.

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[1] According to Appellants, the real party in interest is Microsoft Technology
Licensing, LLC. App. Br. 3.

STATEMENT OF THE CASE

The Claims

Claims 1, 8, and 15 of Appellants' application are independent. Claim 1, copied below, is illustrative of the subject matter on appeal:

1.   A method in a computing environment comprising a client and a data storage server, the method for exposing the details of storage optimization within the data storage server to the client, the method comprising:

accessing, by the client, metadata describing the storage of file data upon the data storage server, wherein accessing metadata comprises sending a request to the data storage server for the metadata, and wherein the file data is stored on the data storage server in a form distinct from a native form of the file data, and wherein the metadata exposes the distinct form of the file data as stored on the data storage server;

receiving, at the client, information from the data storage server comprising metadata describing the storage of file data upon the data storage server, wherein the metadata describing the storage of file data upon the data storage server comprises data describing compression information for the file data which may be used to decompress the file data, wherein the data storage server is remotely located from the client;

sending, by the client, a subsequent request for the file data, wherein the subsequent request for the file data is based at least in part on the metadata describing the storage of the file data on the data storage server, and wherein the request is for the distinct form of the file data as stored in the storage server;

receiving, at the client, the file data, wherein the file data is received in the distinct form of the file data as stored on the data storage server; and

transforming, by the client, the distinct form of the file data to the native form of the file data based on the metadata.

App. Br. 22 (Claims App'x).

The Examiner's Rejections

Claims 1–4, 7–20, 22, and 23 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Anglin,[2] Bojinov,[3] and Randall.[4] *See* Non-Final Act. 5–16.

ANALYSIS

Appellants contend the Examiner erred in finding Anglin teaches or suggests claim 1's "receiving . . . metadata describing the storage of file data" limitation because, Appellants argue, Anglin at best teaches providing information about a file, not information about how the file data is stored. *See* App. Br. 13–14. We disagree with Appellants.

As found by the Examiner (Non-Final Act. 6 (citing Anglin ¶ 31); Ans. 3–4 (citing Anglin ¶¶ 12, 32)), Anglin discloses that "five data fields are tracked for each instance of a chunk stored on the client: hash value 210, chunk length 220, file path 230, file attributes 240, and the offset of the chunk within the file 250" (Anglin ¶ 31). These data fields of Anglin satisfy "metadata describing the storage of file data" as they "help locate and verify the chunk in the client data store." Anglin ¶ 12; *see id.* ¶ 31. The Examiner's findings are consistent with the plain language of claim 1 read in light of Appellants' Specification, which provides that "metadata describing the storage of file data" "may be information describing how the file data was chunked on the data store" (Spec. ¶ 51), and "may comprise a hash list

[2] Anglin et al. (US 2011/0218969 A1; published Sept. 8, 2011) ("Anglin").
[3] Bojinov et al. (US 2009/0190760 A1; published July 30, 2009) ("Bojinov").
[4] Randall et al. (US 2007/0094583 A1; published Apr. 26, 2007) ("Randall").

of cryptographic hashes of each of the chunks making up a file" (Spec. ¶ 58). *Accord* Spec. ¶¶ 65, 75; App. Br. 23 (dependent claims 2–4 similarly defining "metadata describing the storage of file data"). More specifically, at least Anglin's "hash value" corresponds to Appellants' "hash list" metadata (*see* Spec. ¶ 58); Anglin's "chunk length" corresponds to Appellants' metadata "describing how the file data was chunked on the data store" (Spec. ¶ 51; *see id.* ¶ 52); and Anglin's "file path" also corresponds to "metadata describing the storage of file data" by "indicat[ing] the path to the file where the subject chunk can be found on the client" (Anglin ¶ 32). Accordingly, we agree with the Examiner that Anglin's teachings fall within a broad but reasonable interpretation of the claimed "metadata describing the storage of file data" as required by claim 1.

Appellants further argue that Anglin does not teach or suggest "file data . . . stored . . . in a form distinct from a native form" because Anglin relates to restoring data, and restored data will necessarily be in the same format on the different machines. App. Br. 14. We disagree with Appellants.

As found by the Examiner, Anglin teaches that its data files stored on a server are chunks of de-duplicated data. Non-Final Act. 6 (citing Anglin ¶ 14); Anglin ¶¶ 4, 7. We agree with the Examiner that Anglin's chunks of de-duplicated data are "in a form distinct from a native form" because distinct from original data, de-duplicated data has had redundant data removed. *See* Non-Final Act. 6; Anglin ¶ 2. The Examiner's findings are consistent with the plain language of claim 1 read in light of Appellants' Specification, which provides that "file data . . . stored . . . in a form distinct from a native form" "may be stored upon the storage server in a chunked

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format" (Spec. ¶ 74) "result[ing] from a de-duplication of the file data" (Spec. ¶ 75).

Next, Appellants argue Bojinov does not teach or suggest the limitations "receiving, at the client, . . . metadata," "sending, by the client, . . . a subsequent request for the file data," and "receiving, at the client, the file data" because in Bojinov, all the information related to how the file is stored ("metadata") never leaves the storage system and all encryption and compression operations are performed in the storage system. *See* App. Br. 15–17. We disagree with Appellants.

Appellants' arguments attack Bojinov individually and fail to substantively address what a person of ordinary skill would have understood from the combined teachings of the Anglin, Bojinov, and Randall references. *See In re Keller*, 642 F.2d 413, 426 (CCPA 1981) ("[O]ne cannot show non-obviousness by attacking references individually where, as here, the rejections are based on combinations of references."). The Examiner found, and we agree, that Anglin teaches or suggests each of the disputed limitations with Bojinov additionally teaching compression information for the file data and a data storage server remote from the client.[5] *See* Non-Final Act. 5–9; Anglin ¶¶ 30, 42; Bojinov ¶¶ 34, 50, 52.

Appellants further argue the combination of Anglin and Bojinov is improper because Bojinov's closed system teaches away from Anglin's open network. *See* Reply Br. 2–5; App. Br. 19–20. We disagree with Appellants.

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[5] In fact, Anglin also teaches or suggests a data storage server *remote* from the client. *See* Anglin ¶ 1 ("The present invention more specifically relates to techniques for optimizing the restoration of de[-]duplicated data that is stored on a remote server within a data storage system.").

At most, Appellants' arguments demonstrate that there are differences between Anglin and Bojinov. *See In re Beattie*, 974 F.2d 1309, 1312–13 (Fed. Cir. 1992) (concluding that showing there are differences between two references is insufficient to establish one reference teaches away from another). Appellants have not provided persuasive evidence that the alternative method of Bojinov criticizes, discredits, or otherwise discourages the solution claimed. *See In re Fulton*, 391 F.3d 1195, 1201 (Fed. Cir. 2004). Moreover, contrary to Appellants' argument that Bojinov's teachings are limited to a "closed" system, Bojinov contemplates an open network where data is communicated over a network between remote devices. *See* Bojinov ¶¶ 16, 34.

Lastly, Appellants argue that combining the functionality of Bojinov's security subsystem with Anglin's distributed network would render Bojinov's security subsystem unsatisfactory for its intended purpose by providing clients metadata that can be used to access Bojinov's secure information. *See* App Br. 20; Reply Br 5–6. We disagree with Appellants.

Appellants' arguments center on the concept of bodily incorporation of Bojinov's systems with Anglin's systems, but "[t]he test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference." *See Keller*, 642 F.2d at 425. Appellants' argument ignores the substance of the Examiner's cited combination by focusing on functional details in Bojinov that are unrelated to the teachings for which the Examiner cites Bojinov—namely, that compression information for file data and a data storage server remote from the client were known in the art. *See* Non-Final Act. 8–9. Accordingly, as the Examiner does not propose combining the functionality

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of Bojinov's security subsystem with Anglin's distributed network, we disagree with Appellants that combining Anglin and Bojinov would render Bojinov unsatisfactory for its intended purpose.

Having considered the Examiner's rejections in light of each of Appellants' arguments and the evidence of record, we are unpersuaded of error and adopt as our own the Examiner's findings, conclusions, and reasoning consistent with the analysis above. *See* Non-Final Act. 5–16; Ans. 3–5. We sustain the Examiner's rejection of claim 1, as well as independent claims 8 and 15 and dependent claims 2–4, 7, 9–14, 16–20, 22, and 23, which were not argued separately with particularity beyond the arguments advanced for claim 1. *See* App. Br. 10–20; Reply Br. 2–6.

DECISION

The decision of the Examiner to reject claims 1–4, 7–20, 22, and 23 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1).
See 37 C.F.R. §§ 41.50(f), 41.52(b).

AFFIRMED